

STATE OF MICHIGAN
COURT OF APPEALS

ADAM M. ABERNATHY,

Plaintiff-Appellant,

v

WILLIAM M. NORTHWAY, D.D.S., M.S.,

Defendant-Appellee.

UNPUBLISHED

March 1, 2002

No. 228509

Grand Traverse Circuit Court

LC No. 99-018573-NH

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order denying his motion to adjourn and granting defendant's motion to dismiss. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this dental malpractice case on February 9, 1999. Defendant is a board-certified orthodontist. MCL 600.2169(1)(a) requires that the standard of care in a medical malpractice action involving a board-certified specialist must be established by a specialist who is board-certified in that specialty. Plaintiff's expert was not board-certified. Shortly before trial, plaintiff moved to adjourn and defendant moved to dismiss based on the lack of qualifications of plaintiff's expert. The trial court denied the adjournment and granted the motion to dismiss.

On appeal, plaintiff relies exclusively on this Court's decision in *Greathouse v Rhodes*, 242 Mich App 221; 618 NW2d 106 (2000), asserting that defendant's failure to challenge the expert's qualifications within a reasonable time after learning of the expert's identity results in a forfeiture of the issue. However, the Supreme Court peremptorily reversed that decision, finding that there is no statutory or case law basis for ruling that a medical malpractice expert must be challenged within a reasonable time. *Greathouse v Rhodes*, 465 Mich 885; 636 NW2d 138 (2001). The Supreme Court's decision precludes plaintiff's sole argument on appeal.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray